

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ANTONIO BERRY §
VS. § CIVIL ACTION NO. 1:06cv691
UNITED STATES OF AMERICA §

MEMORANDUM OPINION AND ORDER

Movant Antonio Berry, a prisoner confined in the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, filed this motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255. On November 16, 2006, the court entered a final judgment, dismissing the motion.

Movant has filed a motion for reconsideration pursuant to FED. R. CIV. P. 59(e) (docket entry no. 8). This memorandum opinion and order considers such motion.

Analysis

FED. R. CIV. P. 59 provides in pertinent part the following:

(1) **Grounds for New Trial.** The court may, on motion, grant a new trial on all or some of the issues -- and to any party -- as follows:

(A) after a jury trial, for any reason for which new trials have heretofore been granted in an action at law in the federal court; or

(B) after a nonjury trial, for any reason for which a rehearing has heretofore been granted in suits in equity in federal court.

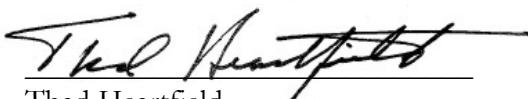
(2) **Further Action After a Nonjury Trial.** After a nonjury trial, the court may, on a motion for a new trial, open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new ones, and direct the entry of a new judgment.

(e) Motion to Alter or Amend Judgment. A motion to alter or amend a judgment must be filed no later than 10 days after entry of judgment.

Movant's motion was not timely filed. Therefore, the motion should be denied. Additionally, even affording movant's motion review, the motion is without merit. After carefully considering movant's motion, the court is of the opinion that movant's motion fails to raise any meritorious issue warranting reconsideration of the court's final judgment. It is therefore,

ORDERED that movant's motion for relief from judgment is **DENIED**.

SIGNED this the 23 day of July, 2008.



Thad Heartfield
United States District Judge